

## 11-1400 Commercial Use Antennas and Antenna Towers

11-1401 Purpose. In order to accommodate the orderly growth of wireless communications systems and the communication needs of residents and businesses while protecting the public health, safety and general welfare of the City and its citizens, the City Council finds that the regulation of commercial use telecommunications antennas and antenna towers is necessary in order to provide fair and equal opportunities for Federal Communications Commission licensed providers of commercial wireless telecommunication services (Providers), facilitate the provision of wireless telecommunication services, minimize adverse visual effects of towers through careful design and siting standards, avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements, and reduce the number of towers needed to serve the community by maximizing the use of existing and approved structures to accommodate new wireless communications antennas.

~~11-1402 Definitions. For the purposes of this Chapter the following definitions shall apply:~~

~~(1) Commercial Use Antenna. A device used to transmit and/or receive radio or electromagnetic waves directly or indirectly related to commercial wireless telecommunication services and cellular services.~~

~~(2) Commercial Use Antenna Tower. Any pole, spire, lattice, or similar structure or combination thereof, greater than 20 feet in height, whether free standing or mounted on a roof or other structure, to which a commercial use antenna is attached or which is designed for an antenna to be attached, and all supporting materials.~~

~~(3) Commercial Wireless Telecommunications Service. Licensed wireless telecommunication services including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.~~

~~(4) Provider. Any person, firm, partnership, corporation, or other legal entity licensed by the Federal Communications Commission to provide commercial wireless telecommunication services.~~

~~(5) Director. The Community Development Director for the City of Coon Rapids or such other City employee as designated from time to time by the City Manager.~~

~~(6) Licensed Engineer. An engineer licensed by the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, and Interior Design.~~

~~(7) Qualified Engineer. An individual trained and qualified as a radio frequency engineer.~~

~~(8) Residential Area. An area of the City zoned for residential uses (LDR-1, LDR-2, MDR, HDR, MH) or guided for residential uses under the City's Comprehensive Development Plan, whether or not currently developed, or an area developed for residential uses under a Planned Unit Development, and areas of the City located within 500 feet of such residential uses as measured by a straight, perpendicular line.~~

## 11-1402 Permits

11-1402.1 Permit Required. It is unlawful to construct, operate, or maintain a commercial use antenna or commercial use antenna tower in any residential area of the City except as provided in this Chapter and after obtaining a permit ~~therefore~~ from the City Council. It is unlawful to construct, operate, or maintain a commercial use antenna or commercial use antenna tower in any other area of the City except as provided in this Chapter and after obtaining a permit

~~therefore~~ from the Director. The Council or Director may engage the assistance of knowledgeable persons, whether or not employees of the City, and all reasonable costs thereof will be borne by the applicant.

11-1402.2 Permit Fees. In addition to any building permit fees, permit fees are required for each antenna or antenna tower located in the City. The permit fees will be established from time to time by resolution of the City Council and are not refundable. The fee must reflect the costs reasonably incurred by the City in the administration and enforcement of the permit. All permit fees must accompany an application. The fees will be doubled for any applicant who begins construction at a site before a permit is secured for that site.

11-1402.3 Permit Application. Application for a permit must be made to the Director in writing on such forms as the Director may from time to time designate and must contain the following:

- (1) Name, address, and telephone number of the applicant.
- (2) If the applicant is not a person, the name, address, and telephone number of the applicant's authorized agent.
- (3) ~~The date of birth of the applicant or, if the applicant is not a natural person, the applicant's agent.~~
- (4) Brief description of the services proposed to be provided.
- (5) Whether the applicant is currently licensed by the Federal Communications Commission to provide those services.
- (6) The address and legal description of the property where the antenna and/or tower is to be located.
- (7) Height of any proposed tower or antenna if the antenna is to be located on a structure other than a tower.
- (8) Design drawings of any proposed tower or antenna.
- (9) Design drawings showing method of attachment of antenna to the tower or other structure.
- (10) Scale drawing showing the following:
  - (a) Boundaries of the property on which a tower is to be located.
  - (b) The leased area of the property if less than the entire parcel.
  - (c) Location and dimensions of any towers and accessory structures or equipment to be constructed or installed.
  - (d) Distances of tower from property lines.
  - (e) Distances of tower to any adjacent structures including, but not limited to, other towers located on or within 100 feet of the leased area.
  - (f) Location and description of landscape screening of accessory structures.
  - (g) Location, size, and description of any fences to be installed.
  - (h) Location of any public and private easements within the leased area.
- (11) Number of additional antennas that may be co-located on the tower.
- (12) Written and signed recognition by the property owner or the owner's authorized agent, if other than the applicant, that failure to remove the tower and associated facilities within the time provided in this Chapter following cessation of use, or upon revocation of the permit, may result in removal of such materials by the City and the assessment of all costs against the property.
- (13) Such other information as the Director may reasonably require to adequately review the application for compliance with the provisions of this Chapter.

(14) The application must be signed by the applicant or the applicant's authorized agent and by the property owner or the owner's authorized agent, if different from the applicant.

(15) The applicant must provide the City with the name, address and telephone number of a responsible contact person for the provider. The City must be advised in writing within 15 days of any and all changes to such information.

(16) A written and signed statement by an individual trained and qualified as a radio frequency engineer (Qualified Engineer) that the proposed service meets or exceeds all requirements of the Federal Communications Commission.

#### 11-1402.4 Issuance of Permit and Appeal.

(1) New Antenna Towers in Residential Areas Applications for ~~antennas or towers~~ to be located in residential areas must be referred to the Planning Commission for consideration and recommendation. The Planning Commission must conduct a public hearing in accordance with Sections 11-3.1.204 and 205 and make a recommendation to the City Council which must approve, deny or approve with conditions. The City Council at its next regular meeting which is not more than 30 days from the date the application is received by the Director. The Director must cause notice of the application to be published in the official newspaper of the City at least 10 days, but not more than twenty days prior to the day of the hearing before the Council. The Director must also cause notice of the hearing to be mailed at least 10 days, but not more than twenty days, before the hearing date to the owners of all properties situated wholly or partly within 850 feet of the antenna or tower location. The notices must include the location of the proposed antenna or tower and must state the time, date, place, and purpose of the hearing. The Council decision must be based on compliance of the application with the provisions of this Chapter. The Council may impose reasonable conditions to the permit designed to insure compliance with this Chapter. The decision of the Council must be made in accordance with Section 11.3.1.202 Time Deadlines for Action. Or (FED REGS) within 150 days of receipt of a complete application. at the meeting to which the application is referred or at the next succeeding regular Council meeting unless otherwise agreed to by the applicant. Failure of the Council to act on an application within the time frame provided herein will be deemed to be approval of the permit without conditions. The decision of the Council must be submitted to the applicant in writing which will clearly state any conditions imposed and the reasons therefor, or in the case of denial the reasons for the denial.

(2) New Antenna Towers in all Other Areas Within ~~45~~ 150 calendar days after receipt of a complete permit application for a tower in any location other than a residential area, the Director must issue or deny the permit. The decision of the Director must be based on compliance of the application with the provisions of this Chapter. The Director may impose reasonable conditions to the issuance of a permit designed to ensure compliance with this Chapter. The decision of the Director must be submitted to the applicant in writing which must clearly state any conditions and the reasons therefore, or, in the case of a denial, the reasons for the denial. The Notice of Issuance or Denial must also contain the appeal rights of the applicant. ~~Upon written notice to the applicant, the Director may extend the issuance date one time for up to 15 additional calendar days.~~ Failure of the Director to act on an application on or before the issuance date or any extension thereof, will deemed to be approval of the permit without conditions.

(3) Colocation. The placement of wireless telecommunication antennas on roofs, walls, and existing towers may be approved administratively by the Director, provided the antennas

meet all applicable requirements of this Chapter and the standards enumerated below. Within 90 days of receipt of a complete application, the Director must issue or deny the permit.

1. The maximum height of an antenna cannot exceed 20 feet above the roofline and be setback at least 10 feet from the roof edge.

2. Wall or façade mounted antennas may not extend more than five feet above the cornice line and must be constructed of a color that matches the exterior of the building or structure

(4) An applicant aggrieved by any decision of the Director may appeal that decision in accordance with Section 11-3.1.206. ~~to the City Council by filing a written request stating the reasons for the appeal with the Director within 10 days following receipt of the Director's decision. For purposes of this paragraph, any mailed notice will be deemed to have been received three business days following deposit in the U.S. Mail unless evidence clearly demonstrates a different date.~~

~~—(5) The Director must refer the appeal to the City Council for hearing at its next regular meeting which will be not less than 10 nor more than 30 calendar days after receipt of the appeal request. The Director must notify the applicant of the date, time, and place of the hearing. The applicant may appear before the Council in person or with counsel and present evidence in support of the appeal. The Council may continue the public hearing one time to the next succeeding regular City Council meeting. Additional continuation will be allowed only with the permission of the applicant.~~

~~(6) The City Council's review and decision shall be limited to the issues stated in the applicant's request for appeal. The Council shall affirm, modify, or reject the decision of the Director. The Council's decision shall be made not later than at the next succeeding regular City Council meeting following the meeting at which the public hearing is closed. Failure of the Council to render a final decision within the allotted time shall be deemed to be concurrence with the applicant's appealed issues.~~

#### 11-1402.5 Revocation of Permit.

(1) In addition to or in lieu of any other penalties provided for herein, the City Council may revoke the permit of any Provider who violates the provisions of this Chapter.

(2) No permit may be revoked until after a public hearing at which the Provider may appear with or without counsel and present evidence to support the Provider's position. The public hearing must be held in accordance with Sections 11-3.1.204.

(3) The Director must cause written notice setting out the City's intent to revoke the permit and the reasons therefor to be sent to the Provider. Such notice must also state the date, time, and place of the hearing.

~~(4) The hearing shall be held not less than 10 nor more than 30 days following receipt of the notice by the Provider. Receipt of the notice will be deemed to occur three business days following deposit of the notice in the U.S. Mail.~~

(5) Any Provider whose permit has been revoked must remove all towers, antennas, and related accessory structures and equipment subject to the revoked permit in the same manner and time frame as for abandoned towers and antennas under Section 11-1405.

#### 11-1403 Zoning Districts.

(1) Antennas and/or towers may be located in any zoning district in the City provided that before a tower may be located in any residential area the applicant must demonstrate to the

satisfaction of the City Council, that no reasonable alternative location exists in another zoning district. The decision of the Council must take into consideration the following:

- (a) Spacing and locational needs to achieve adequate service coverage.
  - (b) Possibility of placement of antenna on a pre-existing structure.
  - (c) Design and height of any proposed tower.
  - (d) Topography and other potential service impediments within the necessary locational radius.
  - (e) Proximity tower to existing residences or future residential properties.
  - (f) Efforts made to make the tower compatible with the surrounding neighborhood.
  - (g) Availability of other potential sites within a reasonable locational radius.
- (2) For the purposes of this Chapter, a tower or antenna proposed to be located within a Planned Unit Development must be considered in light of the approved use of the property rather than its underlying zoning.
- (3) No tower may be located within the boundaries of the Mississippi River Corridor Critical Area Overlay District unless the applicant demonstrates to the satisfaction of the City that the tower will not be visible from the river or from any public park located within the District.

#### 11-1404 Performance Standards.

##### 11-1404.1 Co-Locations.

(1) No new commercial use antenna tower may be erected unless the permit issuer finds that the telecommunications equipment proposed to be located on the tower cannot be accommodated on an existing or approved tower or other structure within a one quarter mile search radius, or within the actual search area if larger than a one quarter mile radius, due to one or more of the following:

(a) The planned equipment would exceed the structural capacity of any existing or approved tower or other structure, as documented by a Licensed Engineer, and the existing or approved tower or other structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.

(b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or other structure as documented by a Qualified Engineer and the interference cannot be prevented at a reasonable cost.

(c) Existing or approved towers and other structures within the search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably as documented by a Qualified Engineer.

(d) Other unforeseen reasons that make it not feasible to locate planned equipment on an existing or approved tower or other structure.

(2) Any proposed Commercial Use Antenna Tower must be designed structurally, electrically, and in all respects to accommodate both the applicant's antennas and related equipment and comparable antennas and equipment of at least one additional user if the tower is over 75 feet in height. Towers must be designed to allow for future rearrangement of antennas on the towers and to accept antennas mounted at varying heights.

11-1404.2 Design Requirements. Proposed or modified towers and antennas must meet the following design requirements:

(1) Towers and antennas must be designed to blend into and be compatible with the surrounding environment through the use of color and suitable visual treatment, except in instances where the color is dictated by Federal or State authorities including, but not limited to, the Federal Aviation Administration.

(2) Tower locations must provide a reasonable amount of screening possible for all sight views of the facility and existing on-site vegetation must be preserved to the extent reasonably possible as determined by the permit issuer.

(3) Commercial Use Antenna Towers must be of a monopole design unless the permit issuer determines that an alternative design would better blend into the surrounding development or is necessary to accommodate structural requirements as documented by a Licensed Engineer.

(4) Commercial Use Antennas or Towers proposed to be mounted on roofs, walls, or existing towers must be shown to meet all structural requirements by a report of a Licensed Engineer indicating the existing structure's suitability to accept the tower, antenna, and related equipment, and indicating the proposed, detailed method of fixing the tower, antenna, or equipment to the structure.

(5) All utility buildings and structures accessory to a tower must be architecturally designed to blend in and be compatible with the surrounding environment. Ground mounted equipment and structures must be screened from view by suitable vegetation approved by the permit issuer, except where the permit issuer finds a design of non-vegetation screening better reflects and compliments the architectural character of the surrounding neighborhood.

(6) Access drives required for the maintenance of equipment must be paved in accordance with City specifications unless the permit issuer finds that some other surface is acceptable due to length, location, and frequency of use.

(7) A tower must be constructed in a manner that conforms to all State and local building code requirements.

#### 11-1404.3 Height.

(1) The maximum height of a free standing tower is 90 feet in a residential area, ~~150 feet within 500 feet of a residential area as defined by this Chapter~~, and 150 feet in other areas of the City, as measured from the ground surface.

(2) The total height of a tower or antenna located on a roof or other structure cannot exceed either the maximum height of a free standing tower in the same area of the City as measured from the ground surface, or 20 feet above the surface of the roof or structure, whichever is greater.

(3) The permit issuer may authorize towers which exceed the limitations provided in paragraph (a) above if the permit issuer finds that the proposed height is the minimum that is reasonably necessary to achieve adequate service coverage due to topographical or other features as documented by a Qualified Engineer.

(4) The height of a tower, whether freestanding or located on another structure, must include any equipment located on top of a tower including, but not limited to, a lightning rod.

#### 11-1404.4 Setbacks.

(1) The setback of a free standing tower from any buildable area on property not owned or under the control of the Provider must be the total height of the tower as

measured from the ground surface plus 10 feet. For purposes of this Section the “buildable area” of a property does not includes required building setbacks from property lines and streets, Class 3, 4, or 5 wetlands, and easements that preclude construction of a building within them.

(2) The permit issuer may reduce the setback upon documentation from a Licensed Engineer that the tower is so designed that any debris in the event of a collapse or failure will be confined to the area of property under the control of the Provider or in any case will not seriously endanger adjacent property.

(3) Ground located structures and/or equipment used by Providers must be located as close as possible to the base of the tower or other structure on which the antenna is located unless another location is approved by the permit issuer.

11-1404.5 Lighting. Towers cannot be illuminated by artificial means and must not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other Federal or State authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

11-1404.6 Signs and Advertising. No portion of any tower, or the property under the control of the Provider, may be used for signs or advertising other than warning, emergency, or equipment information signs. The name and emergency contact telephone number for each Provider must be conspicuously displayed at each antenna location using a sign not less than three inches by five inches nor larger than five inches by seven inches in size for each.

11-1404.7 Maintenance.

(1) Towers and all accessory structures and equipment, including any fencing, must be kept in good repair and must be repainted as reasonably necessary. Graffiti must be removed upon notification by the Director in accordance with a reasonable schedule determined by the Director.

(2) Vegetation used for screening must be properly maintained and any screening planting that dies or is severely damaged as determined by the Director must be replaced in accordance with a schedule provided or approved by the Director.

(3) All property under the control of a Provider must be maintained with ground cover approved by the Director and must be regularly mowed and kept as weed free as reasonably possible.

(4) Property under the control of a Provider must not be used for the storage of equipment or other items not reasonably necessary for the operation of the Provider’s services.

11-1404.8 Interference with Public Safety Telecommunications. No new or existing commercial wireless telecommunications service may interfere with public safety telecommunications.

11-1405 Abandoned, Obsolete, and Unused Towers and Antennas. A Provider must provide written notice to the City of the discontinuation of the use of all or any significant part of any tower. Abandoned and unused towers shall be removed as follows:

(1) All abandoned or unused towers and facilities must be removed from the site within 12 months of cessation of operations unless a time extension is approved by the permit issuer. In

the event that a tower is not removed within 12 months of the cessation of operations, the tower and related facilities may be removed by the City and the costs of removal assessed against the property in the same manner as a special assessment.

(2) Any unused portions of a tower above a manufactured connection must be removed within 12 months of cessation of use and may not be replaced without the issuance of a new permit.

(3) Any equipment and other materials removed by the City pursuant to this Section may be disposed of by the City in the manner of abandoned properties. Any costs of such disposal incurred by the City will be assessed against the property in the same manner as a special assessment.

11-1406 ~~Effect on Existing~~ Non Conforming Towers and Antennas. Commercial use antennas and towers in existence prior to the effective date of this ordinance which do not conform to or comply with this Chapter are subject to the ~~following~~ provisions found in Chapter 11-1300 Non Conforming Lots, Structures and Uses. Colocation of additional antennas without increasing the height of the existing tower is not considered an expansion of the tower.

~~(1) Towers and/or antennas may continue in use for the purpose currently used and as currently existing, but may not be replaced or structurally altered without complying in all respects with this Chapter.~~

~~(2) In the event such towers or antennas are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower and/or antenna may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefore, but without otherwise complying with this Section, provided, however, that if the estimated cost of repairing the tower or antenna to its former use, physical dimensions, and location would be 50 percent or more of the cost of a new tower or antenna of like kind and quality, the tower or antenna may not be repaired or restored except in full compliance with this Chapter.~~

~~14-1407 Violations. A violation of the provisions of this Chapter is a misdemeanor and punishable by law accordingly.~~

~~11-1408 Titles. Titles to the sections of this Chapter are for convenience only and are not to be considered a part of the provision to which they refer. They may not be used to define or otherwise interpret any particular section of this Chapter.~~

~~11-1409 Severability. If any section or any portion of any section of this Chapter is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality will not affect the validity of other sections of this Chapter.~~